

Exhibit 98

UNDER PROTECTIVE ORDER

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1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 CASE NO.: 2:18cv530
4

5 CSX TRANSPORTATION, INC.,
6 individually and on behalf of
7 NORFOLK & PORTSMOUTH BELT LINE
8 RAILROAD COMPANY,
9 Plaintiff,
10 vs.
11 NORFOLK SOUTHERN RAILWAY
12 COMPANY, et al.,
13

Defendants.

11 _____/
12
13 TRANSCRIPT DESIGNATED UNDER PROTECTIVE ORDER
14 VIDEOTAPED DEPOSITION OF
15 DEAN PIACENTE
16 Friday, January 15, 2021
17 10:33 a.m. - 4:51 p.m.
18 Remote Proceedings
19
20
21
22
23

24 Stenographically Reported By:
25 Gina Rodriguez, RPR, CRR, CCP
Job No. CS4376064

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1 those others, but ONE and OOCL were probably the two
2 that stick out in my mind as ones where we had a
3 substantial upside in volume. And that upside would
4 have come through NIT, which would have been a
5 significant discussion with the Port of Virginia in
6 how to accomplish that.

7 Q. Are you aware of why they were more aligned
8 with the Port of Virginia?

9 A. I -- I would not have been aware as to why
10 they chose the Port of Virginia. CSX was always
11 looking for ways to get traffic off of any of the
12 ports that landed at the ports, but we didn't believe
13 we had high influence over why they chose a port or a
14 terminal.

15 Q. During your contract negotiations with ONE
16 or OOCL, did you ever discuss the potential to move
17 some of their volumes out of the Port of Virginia to
18 a different port?

19 A. We may have had discussions, I don't recall
20 specific ones, but I do recall specifically that any
21 attempts by us to influence change were -- were
22 fruitless; that we -- we came to realize that the
23 railroad pricing and operations were not the most
24 significant driver of what a steamship line looks at,
25 and choosing a port.

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1 There are many other factors that, you
2 know, we're not privy to, such as the port and
3 chassis availability and driver's frequency of
4 sailings, things -- things that we're not
5 necessarily privy -- privy to.

6 Q. Besides the ones that you just mentioned,
7 are you aware of any other factors that the ocean
8 carriers consider when they're deciding on a port to
9 call?

10 A. Availability of storage on-dock, port fees,
11 driver availability.

12 There are some carriers that are aligned
13 with other carriers, and if the other partner had
14 their reasons for landing at a port, the ability for
15 us to influence their aligned partner was even
16 slimmer because of their inability to, you know,
17 ship -- ship to different locations.

18 Q. Can you explain to me what you mean when
19 you say "their aligned partner."

20 A. From what I recall, the steamship lines
21 partnered with one another in alliances to maximize
22 the capacity on ships. And so they -- they came up
23 with some type of an agreement where one partner
24 could utilize the capacity of a ship owned by another
25 partner in certain trade lanes.

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1 BY MR. GENTRY:

2 Q. Is there a particular reason why trucks in
3 domestic intermodal are competitive up to 500 miles,
4 but, as you say, in international intermodal, trucks
5 are competitive up to 150 to 200 miles?

6 A. So the international intermodal supply
7 chain is much longer in terms of total distance from
8 the actual origin to the actual destination. So the
9 actual origin being a foreign country to the
10 destination.

11 And so the transportation equation would
12 be much larger than a domestic shipment from an
13 origin to a destination. And so speed on domestic
14 becomes a much more important factor than it does on
15 intermodal international where you have a longer
16 supply chain and a longer transit time.

17 Q. And at the Port of Virginia, is barging
18 also an option for ocean carriers?

19 MR. JUSTUS: Objection, vague.

20 A. Yeah, I think you would have to get more
21 specific when you ask about barging.

22 BY MR. GENTRY:

23 Q. So for ocean carriers that call on the Port
24 of Virginia for intermodal transportation services,
25 are there any barges that transport their containers

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1 MR. JUSTUS: Objection, misstates prior
2 testimony.

3 A. Coming out of the Port of Virginia
4 terminals, the primary competitor in consideration
5 was Norfolk Southern.

6 BY MR. GENTRY:

7 Q. Does CSX ever consider the truck rates out
8 of the Port of Virginia?

9 A. We certainly would look at the truck rates
10 to inland points, but we felt confident that when
11 we're beyond the 200-mile inland movements, that the
12 primary competitor would be the Norfolk Southern from
13 the Port of Virginia. We believed that we could
14 confidently offer a more competitive rate than
15 truckers could offer to places like the Ohio Valley
16 and Illinois.

17 Q. But CSX --

18 A. Sure.

19 Q. But CSX is looking at those truck rates
20 because they consider trucks to compete for that
21 business, right?

22 A. Not -- not to that distance.

23 If -- typically truckers just don't go
24 that far. So it is not a -- it's a very minor
25 consideration.

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1 Certainly, you always want to know your
2 competition and if anything changes, but when I was
3 in the role, truckers for inland movements were not
4 a primary consideration and were not part of the
5 discussion with the steamship lines. They were
6 always sort of a back -- a back-shop analysis just
7 to make sure there wasn't anything peculiar that was
8 changing.

9 Q. And I understand that CSX has a lane from
10 the port of New York/New Jersey, to Indianapolis; is
11 that right?

12 A. I believe so.

13 Q. And I also understand that Norfolk Southern
14 does not have a service to Indianapolis; is that
15 right?

16 A. I couldn't say that.

17 Q. What is the constraint on CSX's ability to
18 price in its New York/New Jersey to Indianapolis
19 lane?

20 MR. JUSTUS: Objection, lack of foundation.

21 A. We always consider railroad competition,
22 but there are other factors that play into pricing to
23 a distant market: How close is the BCO, and perhaps
24 are there West Coast origins into Indianapolis as
25 well that perhaps the NS could -- or other railroad